

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SEDRICK DEWAYNE ALTHEIMER,

Plaintiff,

vs.

PIERCE COUNTY, WASHINGTON, and  
PIERCE COUNTY SHERIFF EDWARD C.  
TROYER (a/k/a/ Ed Troyer), in his individual  
and official capacity,

Defendants.

NO. 2:21-cv-01437 RSM

DEFENDANT TROYER'S MOTION  
TO COMPEL DISCOVERY RESPONSES  
AND FED. R. CIV. P. 35(a)  
EXAMINATION

NOTE ON MOTION CALENDAR:  
June 2, 2023

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**I. INTRODUCTION AND RELIEF REQUESTED**

Defendant Edward C. Troyer ("Defendant Troyer") moves this Court to enter an Order compelling Plaintiff Sedrick Dewayne Altheimer ("Plaintiff") to provide complete and accurate responses to two interrogatories and three requests for production included within Defendant Troyer's First Interrogatories and Requests for Production to Plaintiff. Additionally, Defendant Troyer requests that the Court enter an Order compelling Plaintiff to undergo a mental examination pursuant to Fed. R. Civ. P. 35(a).

**II. STATEMENT OF FACTS**

Plaintiff alleges that on the morning of January 27, 2021, Defendant Troyer followed Plaintiff as he drove his automobile through the neighborhood of N. 27th Street and Deidra Circle

1 in Tacoma, Washington. Plaintiff states that he was delivering newspapers.<sup>1</sup> Plaintiff's claims  
 2 stem from Defendant Troyer's alleged actions and statements that morning.<sup>2</sup> Plaintiff contends  
 3 that Defendant Troyer is liable for false reporting to police. Plaintiff alleges that Defendant Troyer  
 4 falsely reported statements to 911 emergency dispatch that, among other things, Plaintiff made  
 5 threats to kill him [Defendant Troyer], falsely reported that he had Plaintiff's car "blocked in," and  
 6 that Plaintiff physically "pushed against" his vehicle.<sup>3</sup>

7 Plaintiff argues that Defendant Troyer violated Plaintiff's Fourth Amendment and  
 8 Fourteenth Amendment due process rights and is liable under 42 U.S.C. § 1983 based on the  
 9 following grounds: due process freedom from false arrest, unreasonable search and seizure, and  
 10 deprivation of liberty based on false reporting.<sup>4</sup> Plaintiff further alleges Defendant Troyer violated  
 11 Plaintiff's equal protection rights under the Fourteenth Amendment to be free of racial animus.<sup>5</sup>

12 In his Complaint, Plaintiff alleges that he was "traumatized" and "has had to make life  
 13 changing alterations to both his work and his personal life because of the trauma he faced as a  
 14 result of" Defendant Troyer's alleged conduct.<sup>6</sup> Plaintiff states that he has "sustained severe  
 15 emotional distress" because of Defendant Troyer's alleged actions.<sup>7</sup> Plaintiff requests relief  
 16 including economic damages and "[e]motional distress, humiliation, fear, trauma, pain and  
 17 suffering, and any medical expenses flowing therefrom, and damages to be proved at trial."<sup>8</sup>

18 In his Initial Disclosures, Plaintiff identified certain people likely to have discoverable  
 19 information.<sup>9</sup> Additionally, in accordance with Fed. R. Civ. P. 26(a)(1)(A)(ii), Plaintiff  
 20 represented that he has in his possession, custody, or control certain documents, electronically  
 21 stored information, and tangible things that he may use to support his claims, identifying

22 <sup>1</sup> ECF 1-1, ¶¶ 4.3 – 4.4.

23 <sup>2</sup> ECF 1-1, ¶¶ 4.1 – 4.52.

24 <sup>3</sup> ECF 1-1, ¶¶ 5.5, 4.13, 4.15, 4.18, 4.16, and 4.20, respectively.

25 <sup>4</sup> ECF 1-1, ¶¶ 5.4 – 5.7.

26 <sup>5</sup> ECF 1-1, ¶ 5.7.

<sup>6</sup> ECF 1-1, ¶¶ 4.41 and 4.43.

<sup>7</sup> ECF 1-1, ¶¶ 4.46 and 4.47.

<sup>8</sup> ECF 1-1, ¶ 6.1(a) and (b).

<sup>9</sup> Declaration of L. Clay Selby in Support of Motion to Compel ("Selby Declaration"), **Exhibit A**.

employment records from Steiner Distribution and therapy records by Dr. Katrina Sanford, PsyD. Finally, regarding computation of categories of damages, Plaintiff identified both economic damages and “[e]motional distress, humiliation, fear, trauma, pain and suffering, and any medical expenses flowing therefrom . . . .”

**A. Discovery Requests**

On March 14, 2023, Defendant Troyer propounded his First Interrogatories and Requests for Production to Plaintiff.<sup>10</sup> Plaintiff delivered his objections and responses on April 21, 2023, and his signed verification on April 24, 2023.<sup>11</sup>

For this Motion to Compel, Defendant Troyer directs the Court’s attention to Interrogatory Nos. 4 and 6 and Request for Production (“RFP”) Nos. 1, 2, and 9, the answers and responses to which Defendant Troyer deems incomplete and insufficient. For ease of tracking, Defendant Troyer will address the discovery requests in the order presented in Defendant Troyer’s First Interrogatories and Requests for Production to Plaintiff.

Defendant Troyer’s first RFP reads as follows:

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents and written communications, including, but not limited to, letters, cards, emails, text messages, WhatsApp, and/or other messaging application communications, between you and the persons identified in your answer to the previous interrogatory for the time frame of January 1, 2021 to present.

The “previous interrogatory” (Interrogatory No. 1) called for Plaintiff to identify “each person you believe to have knowledge with respect to the factual allegations, causes of action, defenses, and/or alleged damages in this matter.” Plaintiff answered Interrogatory No. 1 “See Plaintiff’s Initial Disclosures dated December 1, 2021.” Then Plaintiff responded to RFP No. 1 with an objection based on attorney-client privilege, followed by a statement that “Plaintiff has no documents, written communications, or other documentation.”<sup>12</sup> This response is inconsistent

<sup>10</sup> Selby Declaration, **Exhibit B**.

<sup>11</sup> Selby Declaration, **Exhibit C**.

<sup>12</sup> Selby Declaration, **Exhibit C**, 3:2 – 13.

1 with Plaintiff's Initial Disclosures in which Plaintiff claimed to have documents by his employer  
2 and Dr. Sanford.

3 Defendant Troyer's next RFP states:

4 **REQUEST FOR PRODUCTION NO. 2:** Produce true and complete copies of  
5 all documents relating to your alleged emotional distress, humiliation, fear, trauma,  
6 pain and suffering, and any medical expenses flowing therefrom. This request is  
7 meant to include, but is not limited to, written communications with any of the  
8 persons identified in answer to the previous interrogatory and relating to your  
9 alleged emotional distress, humiliation, fear, trauma, pain and suffering, and any  
10 medical expenses flowing therefrom.

11 In response, Plaintiff objected, alleging attorney-client privilege, overly broad, and vague.  
12 Plaintiff went on to say "[a]ny documents that may have produced by a treatment provider are not  
13 in Plaintiff's possession. Without waiving the objection, Plaintiff does not have any written  
14 communications or medical bills. . . ."<sup>13</sup> This response is inconsistent with Plaintiff's Initial  
15 Disclosures, which stated that Plaintiff possessed therapy records from Dr. Sanford.

16 Next, at Interrogatory No. 4, Defendant Troyer inquired about Plaintiff's alleged damages:

17 **INTERROGATORY NO. 4:** Identify any and all damages you allege as a result  
18 of the claims asserted in this matter. Your answer should include, without  
19 limitation, the category of damages (economic, noneconomic, etc.), the amount, the  
20 claim for which you believe the damages apply, the manner in which you calculated  
21 those damages, and the time period in which those damages were alleged to have  
22 occurred.

23 After objecting on the grounds of overbroad and vague, Plaintiff answered, in part: "As a  
24 result of the encounter with Sheriff Troyer on January 27, 2021, Plaintiff suffered from  
25 Post-Traumatic Stress Disorder (PTSD), severe anxiety, stress, depression, and withdrawal."  
26 Plaintiff offered additional explanation of how and when his alleged PTSD symptoms are  
heightened.<sup>14</sup> Notably, however, Plaintiff did not address economic damages, the amount, or the  
other aspects of the Interrogatory.

Finally, Interrogatory No. 6 and RFP No. 9 go together:

<sup>13</sup> Selby Declaration, **Exhibit C**, 3:21 – 4:4.

<sup>14</sup> Selby Declaration, **Exhibit C**, 4:11 – 5:14.

**INTERROGATORY NO. 6:** Identify all mental health treatment you have sought at any time prior to, during, or subsequent to the events described in your Complaint. Your answer should identify, without limitation, the nature of the mental health concerns, names of the treatment provider(s), dates of visits, the nature of your treatment, and the recommended course of treatment, including any medications recommended or prescribed.

**REQUEST FOR PRODUCTION NO. 9:** Produce all documents related to your answer to the prior Interrogatory.

In answer to Interrogatory No. 6, Plaintiff stated the following: “Objection, attorney-client privilege, overly broad, cumulative, and not reasonably calculated to lead to admissible evidence. Without waiving the objection, Plaintiff has no documentation. Plaintiff reserves the right to supplement this answer.” Plaintiff repeated this statement in response to RFP No. 9.<sup>15</sup>

**B. Meet and Confer**

Plaintiff’s discovery responses are inconsistent with his Initial Disclosures and incomplete. Plaintiff is attempting to circumvent his discovery obligations in an attempt to prevent Defendant Troyer from obtaining information and documents relevant to Plaintiff’s claims. As noted above, Plaintiff alleges a host of severe mental health conditions and damages, yet he has failed to produce therapy records purportedly in his possession, custody, or control, and he has not identified any treatment provider. Likewise, Plaintiff failed to elaborate on his damages claim, including failing to identify economic damages, the amount of same, the calculation of such damages, etc.

On May 5, 2023, Defendant Troyer’s counsel sent Plaintiff’s counsel a letter outlining his concerns and requesting a meet and confer conference.<sup>16</sup> Also, the May 5, 2023, correspondence notified Plaintiff’s counsel of Defendants’ request for Plaintiff to agree to participate in a mental examination pursuant to Fed. R. Civ. P. 35. Defendant Troyer’s counsel identified the examiner as Alan W. Newman, M.D., L.F.A.P.A. and advised that Dr. Newman requests at least one full day if performed in person or two half-days if performed by Zoom. Defendant Troyer’s counsel

<sup>15</sup> Selby Declaration, **Exhibit C**, 8:8 – 21.

<sup>16</sup> Selby Declaration, **Exhibit D**.

1 informed Plaintiff's counsel that Dr. Newman requests to record the entire examination and that  
 2 Plaintiff not be accompanied by any person in the room during examination.<sup>17</sup>

3 Plaintiff's counsel and Defendant Troyer's attorney met and conferred by telephone on  
 4 May 11, 2023. During the call, Plaintiff's counsel advised that Dr. Katrina Sanford's inclusion on  
 5 Plaintiff's Initial Disclosures was a "scrivener's error." Plaintiff's counsel declined to identify any  
 6 medical provider for Plaintiff, including physician, therapist, or counselor. As for damages,  
 7 Plaintiff's counsel conceded that Plaintiff is not seeking economic damages despite statements to  
 8 the contrary in Plaintiff's Complaint and Initial Disclosures. Plaintiff's counsel refused to amend  
 9 or supplement any of Plaintiff's answers or responses to Defendant Troyer's First Interrogatories  
 10 and Requests for Production.

11 Likewise, Plaintiff's counsel rejected Defendant Troyer's request for a mental examination  
 12 of Plaintiff.<sup>18</sup>

### 13 **C. The Rule 35(a) Examination**

14 Plaintiff claims to have suffered severe emotional distress as a result of Defendant Troyer's  
 15 alleged actions. Among other things, Plaintiff claims that he suffers from PTSD, severe anxiety,  
 16 stress, depression, and withdrawal. Plaintiff has not produced any documentation to support these  
 17 claims, and he has apparently withdrawn the one person previously identified as a therapist  
 18 (Dr. Sanford). Therefore, Defendants seek a mental examination of Plaintiff so they may evaluate  
 19 Plaintiff's claimed condition and damages.

### 20 **III. ISSUES PRESENTED**

21 1. Plaintiff claims that he suffers from PTSD, severe anxiety, stress, depression, and  
 22 withdrawal as a result of his encounter with Defendant Troyer. Additionally, Plaintiff has  
 23 previously stated that he seeks economic damages in this lawsuit. Plaintiff has failed to identify  
 24 any medical provider, therapist, or counselor with whom he has ever treated, and he has failed to  
 25

26 <sup>17</sup> Selby Declaration, ¶ 6 and **Exhibit E**.

<sup>18</sup> Selby Declaration, ¶ 7.

1 provide information regarding his alleged economic damages. Should the Court enter an Order  
 2 compelling Plaintiff fully and completely respond to Defendant Troyer's Interrogatory Nos. 4  
 3 and 6 and RFP Nos. 1, 2, and 9?

4 2. Plaintiff contends that he suffers from PTSD, severe anxiety, stress, depression, and  
 5 withdrawal as a result of his encounter with Defendant Troyer. Should the Court enter an Order  
 6 directing Plaintiff to undergo a mental examination with Alan W. Newman, M.D., L.F.A.P.A. to  
 7 determine the nature and extent of Plaintiff's conditions and damages?

#### 8 **IV. ARGUMENT**

##### 9 **A. Fed. R. Civ. P. 26(b) provides for broad discovery.**

10 A party may obtain discovery regarding any nonprivileged matter that is relevant to any  
 11 party's claim or defense and proportional to the needs of the case, considering the importance of  
 12 the issues at stake, the amount in controversy, the parties' relative access to relevant information,  
 13 the parties' resources, the importance of the particular discovery in resolving issues, and whether  
 14 the burden or expense of the discovery outweighs its likely benefit.<sup>19</sup>

15 "Relevant" is not defined but has been broadly construed to mean "any matter that bears  
 16 on, or that reasonably could lead to other matters that could bear on, any issue that is or may be in  
 17 the case."<sup>20</sup> The Court has broad discretion in considering the factors regarding whether the  
 18 requested discovery is proportional to the needs of the case.<sup>21</sup>

19 In the case at bar, the discovery requests at issue seek information and documents relating  
 20 to persons with relevant knowledge, Plaintiff's alleged emotional distress damages and related  
 21 mental health conditions, and Plaintiff's damages. The discovery requests go to the core of this  
 22 case and request information and documents particularly within Plaintiff's possession, custody, or  
 23 control. Plaintiff has stymied Defendant Troyer's ability to investigate Plaintiff's claims and  
 24

25 <sup>19</sup> Fed. R. Civ. P. 26(b)(1).

26 <sup>20</sup> *Oppenheimer Funds, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

<sup>21</sup> *JP Morgan Chase Bank, N.A. v. DataTreasury Corp.*, 936 F.3d 251, 260 (5<sup>th</sup> Cir. 2019).

1 alleged damages and to support his own defenses. Therefore, the requested discovery is  
2 proportional to the needs of this case.

3 **B. Plaintiff has failed to respond to discovery, or in some instances, has provided**  
4 **responses inconsistent with his Complaint and Initial Disclosures.**

5 1. RFP No. 1. In his Initial Disclosures, Plaintiff identified his employer, Darin  
6 Steiner, as a person likely to have discoverable information that Plaintiff may use to support his  
7 claims. Plaintiff stated that he had within his possession, custody, or control employment records  
8 from Mr. Steiner. In response to Defendant Troyer's Interrogatory No. 1 (persons with knowledge  
9 with respect to the factual allegations, causes of action, defenses, and/or alleged damages), Plaintiff  
10 referred to his Initial Disclosures. However, in response to RFP No. 1, which demanded  
11 production of documents and written communications with persons identified in answer to  
12 Interrogatory No. 1, Plaintiff stated that he has "no documents, written communication, or other  
13 documentation." This is inconsistent with Plaintiff's Initial Disclosures. Defendant Troyer asks  
14 the Court to direct Plaintiff to produce the employment records identified in his Initial Disclosures,  
15 along with any other responsive documents relating to Darin Steiner.

16 Similarly, in his Initial Disclosures, Plaintiff identified therapy records from Dr. Katrina  
17 Sanford, PsyD, as being in his possession, custody, or control, yet he did not produce any records  
18 from Dr. Sanford in response to RFP No. 1. At the meet and confer conference, Plaintiff's counsel  
19 advised that the reference to Dr. Sanford in the Initial Disclosures was a "scrivener's error," but to  
20 date, Plaintiff has not amended his Initial Disclosures or supplemented his response to RFP No. 1.  
21 Defendant Troyer requests that the Court direct Plaintiff to either produce responsive records or  
22 amend his Initial Disclosures to remove Dr. Sanford.

23 2. RFP No. 2. Defendant Troyer requested production of "all documents relating to  
24 your alleged emotional distress, humiliation, fear, trauma, pain and suffering, and any medical  
25 expenses flowing therefrom." Defendant Troyer borrowed this language from Plaintiff's  
26 Complaint and Initial Disclosures. Documentation relating to Plaintiff's alleged condition(s) is



1 relevant and permissible with the scope of Fed. R. Civ. P. 26(b). As noted above, in his Initial  
 2 Disclosures, Plaintiff identified therapy records from Dr. Katrina Sanford as being in his  
 3 possession, custody, or control. Plaintiff's Response to RFP No. 2 is vague and inconsistent with  
 4 his Initial Disclosures. Plaintiff states "[a]ny documents that may have been produced by a  
 5 treatment provider are not in Plaintiff's possession." This does not answer whether such  
 6 documents are in Plaintiff's control. Plaintiff went on to state that he has no written  
 7 communications or medical bills. Plaintiff produced no documents in response to this RFP. At  
 8 the meet and confer conference, Plaintiff's counsel advised that Plaintiff's inclusion of Dr. Sanford  
 9 in his Initial Disclosures was a "scrivener's error," but she did not identify any other treatment  
 10 provider or otherwise offer to supplement Plaintiff's response. Defendant Troyer asks the Court  
 11 to direct Plaintiff to produce all responsive records within his possession, custody, or control, as  
 12 permitted by Fed. R. Civ. P. 34.

13 3. Interrogatory No. 4. Defendant Troyer's Interrogatory No. 4 seeks detail regarding  
 14 Plaintiff's alleged damages. This request builds off of Fed. R. Civ. P. 26(a)(1)(A)(iii), which  
 15 requires a computation of each category of damages. Plaintiff has claimed economic damages in  
 16 both his Complaint and Initial Disclosures. In his Answer to this Interrogatory, however, Plaintiff  
 17 failed to categorize his alleged damages, state the amount of purported damages, the claim or  
 18 claims for which they apply, the manner in which he calculated damages, or the time period in  
 19 which they allegedly occurred, all of which were requested in the interrogatory. At the meet and  
 20 confer conference, Plaintiff's counsel eventually conceded that Plaintiff is not alleging or seeking  
 21 economic damages. Other than that oral concession, Plaintiff's counsel declined to supplement  
 22 Plaintiff's Answer. Defendant Troyer asks the Court to direct Plaintiff to supplement his Answer,  
 23 at a minimum confirming that he is withdrawing any claim for economic damages.

24 4. Interrogatory No. 6 and RFP No. 9. Plaintiff has made his mental health a central  
 25 issue in this lawsuit. Plaintiff's Complaint and Initial Disclosures identify "[e]motional distress,  
 26 humiliation, fear, trauma, pain and suffering," and therefore, Defendant Troyer's request for

1 identification of all mental health treatment prior to, during, or subsequent to the events at issue in  
 2 this lawsuit sought information and documentation relevant to the claims, defenses, and damages  
 3 in this lawsuit. Interrogatory No. 6 specifically asked Plaintiff to identify the nature of mental  
 4 health concerns, names of treatment providers, dates of visits, and nature and course of treatment.  
 5 Plaintiff's statement in response to Interrogatory No. 4 that he "has suffered from Post-Traumatic  
 6 Stress Disorder (PTSD), severe anxiety, stress, depression, and withdrawal," cements the  
 7 relevance of the information sought in Interrogatory No. 6 and the documentation requested in  
 8 RFP No. 9. In answering Interrogatory No. 6, Plaintiff sidestepped the interrogatory entirely,  
 9 failing to identify his mental health concerns, treatment providers, dates of visits, or nature and  
 10 course of treatment. Instead, he stated simply that he possesses no documents. Plaintiff's Answer  
 11 is nonresponsive and a blatant attempt to conceal relevant evidence. Plaintiff's Response to RFP  
 12 No. 9 takes the same position. Defendant Troyer asks the Court to direct Plaintiff to supplement  
 13 his Answer to Interrogatory No. 6 with all of the requested information. Further, the Court should  
 14 order Plaintiff to supplement his Response to RFP No. 9 by producing responsive documents  
 15 within his possession, custody, or control.

16 **C. There is good cause to direct Plaintiff to undergo a Rule 35(a) examination.**

17 The Court may order a party to undergo a physical or mental examination following a  
 18 motion showing good cause.<sup>22</sup> "Rule 35(a) is to be construed liberally in favor of granting  
 19 discovery."<sup>23</sup> When a plaintiff has affirmatively placed in controversy his mental condition, good  
 20 cause exists to order an examination under Rule 35(a).<sup>24</sup> In instances where the plaintiff has placed  
 21 the severity of his emotional problems in the record, and they will play a central role in the case,  
 22 there is good cause for a Rule 35(a) mental examination.<sup>25</sup>

23 Fed. R. Civ. P. 35(a).

24 *Eckman v. University of Rhode Island*, 160 F.R.D. 431, 433 (D. R.I. 1995) citing *Cody v. Marriott Corp.*,  
 103 F.R.D. 421 (D. Mass. 1984).

25 Fed. R. Civ. P. 35(a); see also *Schlagenhauf v. Holder*, 39 U.S. 104, 119 (1964).

26 *Eckman v. University of Rhode Island*, 160 F.R.D. at 434.

1 Here, Plaintiff placed his mental condition in controversy in his Complaint and then again  
 2 with his Answer to Interrogatory No. 4 when he stated that “As a result of the encounter with  
 3 Sheriff Troyer on January 27, 2021, Plaintiff has suffered from Post-Traumatic Stress Disorder  
 4 (PTSD), severe anxiety, stress, depression, and withdrawal.” Defendants question the existence,  
 5 extent, and causation of Plaintiff’s alleged emotional injuries and should be permitted an  
 6 opportunity to investigate these issues via a mental examination conducted by a qualified medical  
 7 professional.

8 Defendant Troyer requests that the Court enter an Order compelling Plaintiff to participate  
 9 in a Rule 35(a) mental examination on a mutually agreed upon date between June 19 – 30, 2023,  
 10 with Alan W. Newman, M.D., L.F.A.P.A. At the meet and confer, Plaintiff’s counsel declined to  
 11 agree to the Rule 35(a) examination but did not offer any bases for their position.

12 Dr. Newman is Chair of the Department of Psychiatry at California Pacific Medical Center,  
 13 Sutter Health, in San Francisco, California and has served as an expert witness in Forensic  
 14 Psychiatry since 2014, having testified in multiple jurisdictions across the country, including  
 15 Washington. Regarding the anticipated four-to-eight-hour examination itself, Dr. Newman is  
 16 willing to be flexible whether it be conducted in person or by Zoom, but he does ask that the Court  
 17 permit him a full day if in person and two half-days if by Zoom. Dr. Newman requests the right  
 18 to record the entire examination. The rationale behind this request is that by recording the  
 19 examination, there is a ready means of determining what was actually said or done in the event of  
 20 disagreement after the fact. Also, the Court should restrict the examination to Dr. Newman and  
 21 Plaintiff to ensure that there is no interference or distraction during the process. Dr. Newman's  
 22 examination would utilize, among other things, the Trauma Symptom Inventory, the Adverse  
 23 Childhood Experiences Scale, the Personality Assessment Inventory, QuickSCID-5, a  
 24 Mini-International Neuropsychiatric Interview, a forensic interview, and a Cognistat Cognitive  
 25 Assessment.<sup>26</sup>

26 <sup>26</sup> Selby Declaration, ¶ 6.

1 Due to Dr. Newman's schedule and the August 2, 2023 expert testimony disclosure  
 2 deadline, Defendant Troyer requests the window of June 19 – 30, 2023 for the examination. This  
 3 should allow Dr. Newman sufficient time to complete his evaluation before the deadline.

4 **V. CONCLUSION**

5 Plaintiff claims that Defendant Troyer's actions have caused him severe mental conditions  
 6 for which he seeks substantial damages, yet Plaintiff has failed to answer discovery with  
 7 information and documents relevant to the claims, defenses, and/or damages at issue, and he has  
 8 declined to participate in a mental examination. Plaintiff wants to have his cake and eat it, too.  
 9 By placing his mental condition in controversy, he has subjected himself to discovery about his  
 10 mental health and alleged damages. Defendant Troyer respectfully requests that the Court enter  
 11 an Order compelling Plaintiff to supplement his Answers to Interrogatory Nos. 4 and 6 and his  
 12 Responses to RFP Nos. 1, 2, and 9. Additionally, Defendant Troyer asks that the Order compel  
 13 Plaintiff to participate in a Rule 35(a) mental examination on a mutually agreed date between  
 14 June 19 – 30, 2023 with Dr. Alan W. Newman on the conditions identified in the proposed Order  
 15 filed herewith.

16 DATED this 18th day of May 2023.

17 LEDGER SQUARE LAW, P.S.

18 By: s/ L. Clay Selby  
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 Attorneys for Defendant Troyer

**CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below, I caused to be served the foregoing document on the following persons and in the manner listed below:

Susan B. Mindenbergs Law Office of Susan B. Mindenbergs 705 Second Ave., Suite 1050 Seattle, WA 98104-1759	<input checked="" type="checkbox"/> CM/ECF <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
Vonda M. Sargent The Law Office of Vonda M. Sargent 119 First Ave. S, Suite 500 Seattle, WA 98104-3400	<input checked="" type="checkbox"/> CM/ECF <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
Gregory E. Jackson Jackson & Nicholson, P.S. 900 SW 16 <sup>th</sup> St., Suite 215 Renton, WA 98057-2619	<input checked="" type="checkbox"/> CM/ECF <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile

DATED this 18th day of May 2023, at Tacoma, Washington.

s/ Amy Jean Shackelford

Amy Jean Shackelford, PP, PLS  
Legal Assistant to L. Clay Selby and  
Eric F. Schacht